

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-4, 6-8, 11-15, and 17-23 are pending in this case. Claims 5, 9, 10, and 16 are canceled without prejudice or disclaimer and Claims 1, 2, 13, 14, 18, and 20-23 are amended by the present amendment. As amended Claims 1, 2, 13, 14, 18, and 20-23 are supported by the original claims and specification,¹ new matter is added.

In the outstanding Official Action, Claims 1-23 were rejected under 35 U.S.C. §112, second paragraph. The specification was objected to for informalities. Claims 1, 5-7, 20, 21, and 23 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 1, 4, 9-11, 19, and 20 of U.S. Patent No. 6,864,906. Claims 1-4, 6, 7, 13, 14, and 20-23 were rejected under 35 U.S.C. §103(a) as unpatentable over Ito et al. (JP 11-153765) in view of Nakamura et al. (U.S. Patent No. 5,212,501). Claims 5, 8, 9, and 15 were rejected under 35 U.S.C. §103(a) as unpatentable over Ito et al. in view of Nakamura et al. and further in view of Date (JP 10-221618). Claims 11 and 12 were rejected under 35 U.S.C. §103(a) as unpatentable over Ito et al. in view of Nakamura et al. and further in view of Murayama et al. (U.S. Patent No. 4,847,642). However, Claims 10 and 16-19 were objected to as dependent on a rejected base claim, but otherwise were indicated as including allowable subject matter if re-written in independent form and to overcome the rejection under 35 U.S.C. §112, second paragraph.

Applicants gratefully acknowledge the indication that Claims 10 and 16-19 include allowable subject matter.

With regard to the rejection of Claims 1-23 under 35 U.S.C. §112, second paragraph, Claims 1, 2, 13, 14, and 20-23 the recitations of a first adjustment unit or means are amended

¹See, e.g., the specification at page 34, lines 18-25 and Figure 12.

to recite "main scanning direction" rather than "sub-scanning correspondence direction."

Claim 18 is amended to recite "a CCD camera configured to record image data at a time based on output signals of the three photodetectors." Accordingly, Claims 1-23 are believed to be in compliance with all requirements under 35 U.S.C. §112, second paragraph.

With regard to the objection to the specification, the specification is amended to recite that the scanning speed of the optical scanner is made uniform in the main scanning direction. Accordingly, the objection to the specification is believed to be overcome.

With regard to the non-statutory double patenting rejection of Claims 1, 5-7, 20, 21, and 23 over Claims 1, 4, 9-11, 19, and 20 of U.S. Patent No. 6,864,906, the rejection is respectfully traversed in light of the terminal disclaimer submitted herewith.

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Claims 1, 2, and 20-23 are amended to include the subject matter of Claim 10 (and intervening Claims 5 and 9), which was indicated as including allowable subject matter. Accordingly, amended Claims 1, 2, and 20-23 (and Claims 3, 4, 6-8, 11, and 12 dependent therefrom) are believed to be in condition for allowance.

Claims 13 and 14 are amended to include the subject matter of Claim 16, which was indicated as including allowable subject matter. (Claims 17 and 18, originally dependent on canceled Claim 16, are amended to depend from Claim 13). Accordingly, amended Claims 13

and 14 (and Claims 15 and 17-19 dependent therefrom) are also believed to be in condition for allowance.

Accordingly, the outstanding rejections are traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Gregory J. Maier
Attorney of Record
Registration No. 25,599

Surinder Sachar
Registration No. 34,423